



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,675	06/24/2003	Cory Bernu	C62.2-10646-US02	8028

490 7590 11/10/2004

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

YAO, SAMCHUAN CUA

ART UNIT	PAPER NUMBER
----------	--------------

1733

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,675

Applicant(s)

BERNU, CORY

Examiner

Sam Chuan C. Yao

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 3 and 23-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4-7 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over White, II et al (US 2001/0032414 A1) in view of Lydzinski et al (US 6,280,514 B1) for reasons of record set forth in a prior office action dated 06-23-04 numbered paragraph 6 and for reasons set forth hereinafter.

With respect to claims 21-22, since Lydzinski et al teaches using a polysaccharide in forming a foamed adhesive, and examples of particularly suitable polysaccharides are *"the starches and dextrans including native, converted or derivatized. Such starches include ... corn, potato, wheat, rice , ... high amylase starch ... Other useful polysaccharides are cellulose materials such as carboxymethylcellulose, hydroxypropyl cellulose and hydroxypropyl methylcellulose ..."* (col. 2 lines 23-44); and since it is well known in the art to form a polysaccharide adhesive from hydroxypropylated starch or carboxymethylated starch, these claims would have been obvious in the art.

Allowable Subject Matter

3. Claims 3 and 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter:

Although it is known per se in the art to incorporate a filler such as a calcium carbonate having a dimension of up to 200 microns to an adhesive composition as exemplified in the teachings of Aydin et al, there appears to be no reasonable motivation in the art to incorporate such a filler to an adhesive taught by Lydzinski for adhesively bonding leaves in a process taught by White, II et al. As correctly noted by Counsel, "*Aydin pertains to adhesives and sealant for ceramic tiles. As is well known, such materials are typically gritty pastes applied with trowels, not spray bottles.*" (emphasis added). For this reason, claims 3 and 23-25 are allowable.

Response to Arguments

5. Applicant's arguments filed on 09-16-04 have been fully considered but they are not persuasive.

On page 6 full paragraph 4, Counsel argues that "*Lydzinski's use of a filler is to extend drying time.*" (emphasis added). Accordingly, this may be advantageous in many applications, "*but it would be perceived as a distinct disadvantage in the application of White II.*". Examiner strongly disagrees with Counsel's

characterizations of the Lydzinski patent. Although it is true that, Lydzinski teaches the *"addition of a filler allows for foam generated to remain consistent and stable for several hours"* as noted by Counsel, nowhere in the disclosure of the Lydzinski patent remotely suggest that the filler is used to extend the drying time. As also noted by Counsel, a filler in a foam adhesive taught by Lydzinski allows *"for extended usage time in many applications."* In other words, the filler is used to extend the shelf life (i.e. useable life) of the foamed adhesive NOT to extend the drying time of the foamed adhesive. It is respectfully submitted that, an amount of solvent in a foamed adhesive has a more direct effect to a drying time of the adhesive than the addition of a filler to a foam adhesive. Since Lydzinski teaches *"... a foamed adhesive contains less water than unfoamed adhesive."* (emphasis added; col. 1 lines 13-24), a drying time of a foamed adhesive taught by Lydzinski is reasonably expected to less than would be if the adhesive of Lydzinski is not in an expanded (i.e. foamed) state. Note that, Lydzinski et al teaches using as low as 10 by weight of water in forming a foamed adhesive. This amount would appear to be less than half the minimum amount of water in an adhesive taught by White, II et al (numbered paragraph 7; examples 1-2, and claim 9. Moreover, the drying time for an adhesive taught by Lydzinski et al is around 2 hours (examples 1-2).

As for Counsel's arguments on pages 6-7, the arguments are moot in view that the rejections based on Miyake et al and Aydin et al have been withdrawn.

Conclusion


6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (571) 272-1224. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sam Chuan C. Yao
Primary Examiner
Art Unit 1733

Scy
11-04-04